

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Schottland	
Application No.: 10/063,792	Group Art Unit: 1722
Filed: 5/13/2002	Examiner: M. A. Patterson
Title: Polycarbonate Articles including Water Bottles with luminescent effect	Confirmation No: 1633
Attorney Docket No.: GEPL.P-051	
Customer No.: 43247	

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

RESPONSE AFTER FINAL REJECTION

Dear Sir:

This is in response to the Official Action mailed June 15, 2006 for the above-captioned application. Reconsideration of the application is respectfully requested.

As a first matter, Applicants respectfully ***request withdrawal of the finality of the rejection*** if this application is not allowed. The rejection presents new issues and references not raised previously. The Examiner asserts that the finality is appropriate because it was necessary due to the amendment. However, this amendment was made based on a representation of the Examiner that this would overcome the cited art. Applicants further submit that there is no material difference between the claims as now drafted and those previously presented since the only change in the claims was to change to amend the word "having" to "comprising." MPEP § 2111.03 states that "having" as a transitional phrase must be interpreted in light of the specification, but the Examiner has offered no reason or rationale what interpretation could be given to the term that is broader than "comprising." As such, the new grounds for rejection are not properly the subject of a final rejection.

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Turning to the merits, the Examiner has rejected the pending claims based on various combinations of art all based on the combination of US Patent No. 3,417,175 of Brown and US Patent No. 3,728,143 of Pollard. The primary Brown reference describes a bottle with "relief decoration." The '143 patent is cited for a teaching of polycarbonate containing a photoluminescent material. The Examiner says that it would be obvious to make the bottle of Brown with the material of the Pollard. Applicants respectfully disagree, and further submit that no combination of the references leads to the presently claimed invention.

The purpose of the Brown reference is a method to make a relief pattern that is a different color from the rest of the bottle. To accomplish this, the reference states that the bulk of the bottle should be made out of one material, and the relief portion from another. Whether or not it is obvious to use the material from the secondary reference as one of these two components, this is not what is presently being claimed. The present claims clearly say that the graphic image is formed by cut or protrusions in the plastic composition that has the luminescent material in it, and that the image arises as a result of the photoluminescence present in the body portion as a whole. Two separate materials are not recited, and are not required. The examiner has oversimplified this limitation of the claims when he says that the Brown et al "fail to disclose a bottle comprising a photoluminescent material to provide a visual effect in the shape of the graphic image." (Office Action Page 2) Thus, what the Examiner apparently says is obvious is not the claimed invention.

In addition, the Pollard patent expressly relates to pigments, not dyes, and thus is not actually applicable to most of the claims. The Examiner's assertion that Pollard discloses xanthene (Page 3) is not supported by the reference.

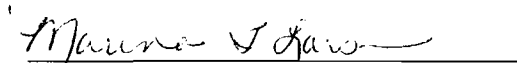
The statement of the rejection that appears on Page 3 of the Official Action concerning claims 3, 5-6, 8, 10, 16, 18-19, 21, 23, 33, 35-36 and 38 is not understood. The statement includes a reference to Kozak et al. but Kozak is not stated as being relied upon. Furthermore, the statement that a pigment comprises a dye and a finite particle size is not consistent with the ordinary meaning of the terms "dye" and "pigment." Accordingly, clarification of this argument is requested should the rejection be maintained.

The other references are relied on solely to address particular limitations in some of the claims, such as characteristics of the bottle, and do not overcome the fundamental deficiency of the base combination of references. Furthermore, US Patent No. 5,066,580 is cited to show the quantum yield of xanthene, however, the Examiner has not shown that xanthene is a compound within the scope of the Pollard patent. Thus, there is no reason to combine this reference with the base reference. Thus, the rejection of claims 11, 12, 40 and 41 should be withdrawn for this additional reason.

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For the foregoing reasons, Applicants submit that this application is in form for allowance. Favorable reconsideration and allowance are respectfully urged.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Marina T. Larson", is written over a horizontal line.

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